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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Xiao-Mai Zhou	:	DECISION ON APPLICATION
Application No. 09/580,523	:	FOR
Filed: May 30, 2000	:	PATENT TERM ADJUSTMENT
Atty Docket No. A7483	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed 9 November, 2006. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from zero (0) days to one hundred twenty (120) days.

The application for patent term adjustment is GRANTED to the extent indicated.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ONE HUNDRED SEVENTEEN (117) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On 11 August, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term

adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed.¹

Applicants state that the application is not subject to a terminal disclaimer.

Applicants dispute the reduction of 368 days of PTA for applicant delay in filing a response to the Notice of Informal or Non-Responsive Amendment mailed on 17 April, 2003. In particular, applicants state that a response was filed on 2 May, 2003, but was not entered due to Office error. Applicants assert that duplicate copy of the response was filed on 12 April, 2004, after the examiner stated that the response filed on 2 May, 2003, was not of record. Thus, applicants contend that there should be a PTA adjustment for PTO delay between the filing of the reply on 2 May, 2003, and the mailing of the non-final Office action on 9 July, 2004.

Applicants further dispute a reduction of 2 days of PTA for the filing of applicants' response to the non-final Office action mailed on 17 January, 2003. Specifically, it is asserted that "[a]s Applicant's Response to the Non-Final Rejection mailed January 13, 2003 was due April 15, 2003 (April 13th and 14th were a Saturday and a Sunday), Applicant's delay was 13 days."

With regard to the filing of a response to the Notice of Informal or Non-Responsive Amendment mailed on 17 April, 2003, a review of the record reveals that applicant's reply was in fact filed on 2 May, 2003, but was not entered due to Office error. As such, the reply filed on 19 April, 2004, was a duplicate copy of the response originally filed on 2 May, 2003. Therefore, applicants are entitled to a PTA adjustment of 314 days for PTO delay in mailing the Office action on 12 November, 2004, after the filing of applicant's reply on 2 May, 2003.

With regard to applicants' assertion that the reduction of 2 days of PTA for applicant delay is not warranted, applicants' position is not supported by the record. At the outset, the Non-Final Rejection was mailed on 17 January, 2003, not 13 January, 2003, as asserted by applicants. As such, the response was due on 17 January, 2003. Further, whether or not any days

¹ PALM records indicate that the Issue Fee was also received on 9 November, 2006.

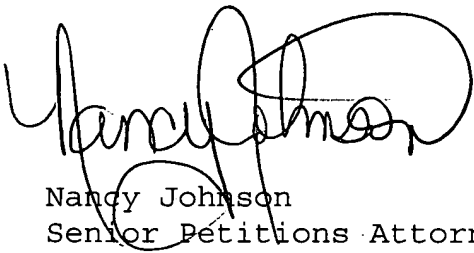
were Saturdays or Sundays has no bearing on PTA determination, as the date used in calculation under 37 CFR 1.704(b) is the actual date of receipt. See 1.703(f). As such, the correct reduction is fifteen (15) days for applicant delay.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE HUNDRED SEVENTEEN (117) days (344 (30+314) of PTO delay, reduced by 227 (2+29+15+31+58+92) days of Applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office will forward the file to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

A handwritten signature in black ink, appearing to read 'Nancy Johnson', with a large, stylized loop at the end.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Thursday
Date: 2/15/2007

PALM INTRANET

Time: 14:52:44

PTA Calculations for Application: 09/580523

Application Filing Date:	05/30/2000	PTO Delay (PTO):	30
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	580
Post-Issue Petitions:	0	Total PTA (days):	117
PTO Delay Adjustment:	667		

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7	08/17/2000	APPLICATION DISPATCHED FROM OIPE			
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EXPLANATION OF PTA CALCULATION

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